



Florida Department of Transportation

JEB BUSH
GOVERNOR

605 Suwannee Street MS # 31
Tallahassee, FL 32399-0450

DENVER J. STUTLER, JR.
SECRETARY

December 12, 2005

This Memo Has Expired

DCE MEMORANDUM NO. 32-05
(FHWA Approval: 12-12-05)

TO: DISTRICT CONSTRUCTION ENGINEERS
FROM: Brian Blanchard, Director, Office of Construction
COPIES: David Sadler, Don Davis (FHWA), Bob Burleson (FTBA)
SUBJECT: PAYMENT OF BOND FOR EXTRA WORK

This memo is being sent out in an effort clarify how payment of bond for extra work shall be paid and to ensure that it is paid in a consistent manner statewide.

Projects Let after July, 2004 includes the following language in specification 4-3.2.1:

(i) Bond: The Contractor will receive compensation for any premium for acquiring a bond for such additional or unforeseen work; provided, however, that such payment for additional bond will only be paid upon presentment to the Department of clear and convincing proof that the Contractor has actually provided and paid for separate bond premiums for such additional or unforeseen work in such amount.

Payment of bond on additional work shall be as follows:

- Bond will **NOT** be paid for additional work paid by the **initial contingency pay item** included in the contract. The initial contingency amount is included in the original contract amount and covered by the contract bond.
- Bond **will be paid** for work added by Supplemental Agreement or by a Work Order on a Contingency Supplemental Agreement. The payment of the bond will be at the contract bond rate as calculated from the information contained in the *Contract Affidavit* , which can be found in your contract documents, as follows:

$$\text{Bond Rate \%} = \frac{\text{Bond Premium}}{\text{Original Contract Amount}} \times 100$$

An example is attached for your use. This bond rate shall be used for all work added by supplemental agreement to the contract.

NOTE THAT THE BOND RATE WILL NEED TO BE CALCULATED FOR EACH CONTRACT AS IT WILL VARY.

DO NOT USE THE OLD 1.5% UNDER THIS SPECIFICATION

- No additional proof of bond is required
- For Subcontracted work, unless the subcontractor provides documentation of their bond rate for the contract, The Prime Contractors bond rate, as calculated above, will be used for subcontracted work.

On all projects past, present and future:

- Bond will **NOT** be paid for pay item overruns. The cost of the bond premium is included in the unit price of the pay items. Refer to section 9-3.1 of the Specifications which states:

9-3 Compensation for Altered Quantities.

9-3.1 General: When alteration in plans or quantities of work not requiring a supplemental agreement as hereinbefore provided for are offered and performed, the Contractor shall accept payment in full at Contract unit bid prices for the actual quantities of work done, and no allowance will be made for increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor, resulting either directly from such alterations, or indirectly from unbalanced allocation among the Contract items of overhead expense on the part of the bidder and subsequent loss of expected reimbursement therefore, or from any other cause.

Compensation for alterations in plans or quantities of work requiring supplemental agreements shall be stipulated in such agreement, except when the Contractor proceeds with the work without change of price being agreed upon, the Contractor shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of work. If no Contract unit price is provided in the Contract, and the parties cannot agree as to a price for the work, the Contractor agrees to do the work in accordance with 4-3.2.

If you have any questions, please contact Tim Lattner at (850) 414-4167, SC 994-4167.

BB/lw

CONTRACT AFFIDAVIT

STATE OF Florida

COUNTY OF Volusia

Before me, the undersigned authority, personally appeared _____ (Attorney-In-Fact) who, being duly sworn, deposes and says that he/she is a duly authorized insurance agent, properly licensed under the laws of the State of Florida (If applicable, otherwise N/A), to represent _____ (Surety Co.) of _____ (Home Office City and State) a company authorized to make surety bonds under the laws of the State of Florida.

_____ (Attorney-In Fact for Surety Co.) further certifies that as Attorney-in-Fact for the said _____ (Surety Co.) has signed the attached bond in the sum of 10,800,250 on behalf of ABC Company (Contractor) covering Financial Project No.(s) _____ ; Contract No.(s) _____ ; in _____ County(ies), Florida.

Said _____ further certifies that the premium on the said bond is \$50,500, which will be paid in full direct to him/her as Attorney-in-Fact, and included in his/her regular accounts to the said _____ (Surety) and that he/she will receive a regular commission of _____ per cent as Attorney-in-Fact for the execution of said bond and that the commission will not be divided with anyone except as follows _____ per cent to _____ (If applicable, otherwise N/A) (N/A, if not applicable)

who is a duly authorized Florida Licensed Insurance Agent properly licensed under the laws of the State of Florida

ACKNOWLEDGMENT FOR ATTORNEY-IN-FACT

Agent or Attorney-in-Fact

Sworn to and subscribed before me this _____ day of _____, _____ by _____ (name of affiant). He/She is personally known to me or has produced _____ as identification. (type of identification)

(Notary Signature) (Notary's printed name) My commission expires _____
Notary Public State of _____

COUNTERSIGNED (If applicable):

Florida Licensed Insurance Agent